

### **Amendments to the Drawings**

In FIG. 2: (1) block 206 has been revised to read “CONSTRUCT DIRECTORY TO A SPARSE DIRECTORY STRUCTURE”, and (2) block 216 has been revised to read “CONSTRUCT DIRECTORY TO A FULLY POPULATED DIRECTORY STRUCTURE”

Attachments: Annotated Sheet  
Replacement Sheet

### **Remarks**

Claims 6, 10, 11, 20, and 24 have been cancelled without prejudice and replaced with new claims 29-33 solely in order to more particularly point out and distinctly claim the allowable subject matter of the present embodiments. These amendments do not introduce new matter, are not narrowing in view of a rejection over a cited reference, and more particularly set forth the subject matter regarded as the invention by the Applicant.

Support for new claim 29 can be found at least in para. [0022] (“a fully populated directory has a fixed size...”) and in para. [0023] (“As the number of data entries increase...”).

Support for new claim 30 can be found at least in para. [0044] (“For every independently addressable data space within the data container, there is a directory entry 510 in a bottom level map.”)

Support for new claim 31 can be found at least in para. [0037] (“The data structure 300 is designed so that individual entries 310 do not need to be allocated for every available data block in the container.”)

Support for new claim 32 can be found at least in block 212 of FIG. 2 and the description thereof.

Support for new claim 33 can be found at least in para. [0024] (“Further, the controller 102 may be capable of converting a directory created using a fully populated directory structure into a sparsely filled directory structure if such a change is warranted.”)

### **Rejection Under Section 102(e)**

Claims 1-11 and 16-28 stand rejected as being anticipated by pending application

Abrashkevich '120. This rejection is respectfully traversed.

### Claim 1

The Examiner has failed to substantiate a prima facie case of anticipation by not making an evidentiary showing that Abrashkevich '120 identically discloses all the recited features of claim 1, which include at least the following:

*A method of maintaining a directory for a data container comprising...reconstructing said sparse directory structure into a fully populated directory structure.*  
(excerpt of claim 1, emphasis added)

The Examiner combined the notions that Abrashkevich '120 discloses dynamic management (para. [0002]) with the heap header (para. [0037]) to allege that it anticipates the *sparse directory structure* and the *fully populated directory structure* of the present embodiments as claimed. The Examiner appears to be implying, without saying so, that either due to dynamic memory management or due to the heap header at various times containing a different amount of data, that somehow Abrashkevich '120 discloses constructing two directory structures. The skilled artisan recognizes this as clearly being erroneous as a misplaced characterization of Abrashkevich '120, which only discloses one structure for the heap header.

The Examiner has not substantiated a prima facie case of anticipation because Abrashkevich '120 does not identically disclose both a *sparse directory structure* and a *fully populated directory structure* as recited by the language of claim 1. The Examiner's claim construction is unreasonably broad because it ignores the plain meaning of these recited phrases, and in effect ignores claim language. *In re Morris*, 43 USPQ2d 1753 (Fed. Cir. 1997) Furthermore, the examination resulting in this claim construction is incomplete

according to the Examiner's obligation to consider the patentability of the invention as claimed. 37 CFR 1.104(a) Accordingly, any further rejection of claim 1 cannot properly be made final.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 and the claims depending therefrom.

#### Claim 16

The Examiner has failed to substantiate a prima facie case of anticipation by not making an evidentiary showing that Abrashkevich '120 identically discloses all the recited features of claim 1, which include at least the following:

*A data storage system comprising...a controller  
that...reconstructs said sparse directory structure into a  
fully populated directory structure.  
(excerpt of claim 16, emphasis added)*

For the same reasons discussed above, the Examiner has not substantiated a prima facie case of anticipation because Abrashkevich '120 does not identically disclose both a *sparse directory structure* and a *fully populated directory structure* as recited by the language of claim 16. The Examiner's claim construction is unreasonably broad because it ignores the plain meaning of these recited phrases, and in effect ignores claim language. *In re Morris*, 43 USPQ2d 1753 (Fed. Cir. 1997) Furthermore, the examination resulting in this claim construction is incomplete according to the Examiner's obligation to consider the patentability of the invention as claimed. 37 CFR 1.104(a) Accordingly, any further rejection of claim 16 cannot properly be made final.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 16 and the claims depending therefrom.

### **New Claims**

New independent claim 29 is allowable over the art of record for the same reasons as discussed above, in that no art of record identically discloses or makes obvious the selective use of both a *sparse directory structure* and a *fully populated directory structure* as in the present embodiments as claimed. Furthermore, new claim 29 more particularly points out and distinctly claims the *sparse directory structure characterized as a linked list* and the *fully populated directory structure characterized as an array*. Abrashkevich '120, for example, discloses the one structure, the heap header, as being a linked list (para. [0037]). Claims 30-33 are allowable as depending from an allowable independent claim and providing additional limitations thereto. Passage of these claims to allowance is respectfully requested.

### **Conclusion**

This is a complete response to the Office Action mailed January 13, 2006.

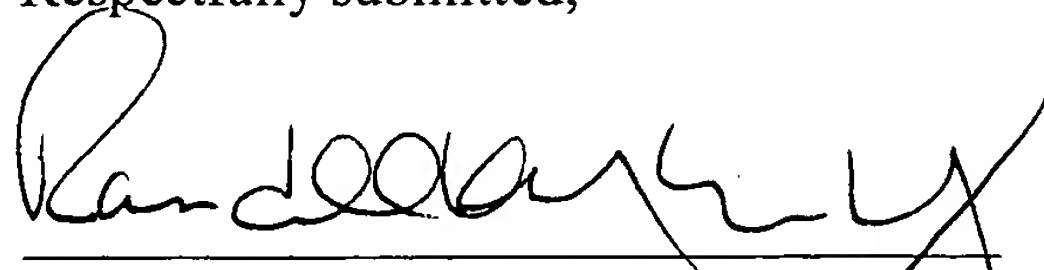
Applicant respectfully requests passage of all pending claims to issuance.

Applicant has also submitted herewith a request for telephone interview, should this Amendment not be successful in obviating the rejection. The interview is necessary to facilitate progress on the merits where the unsubstantiated anticipatory rejection in the first action has already caused unnecessary delays preventing the issuance of Applicant's valuable patent rights.

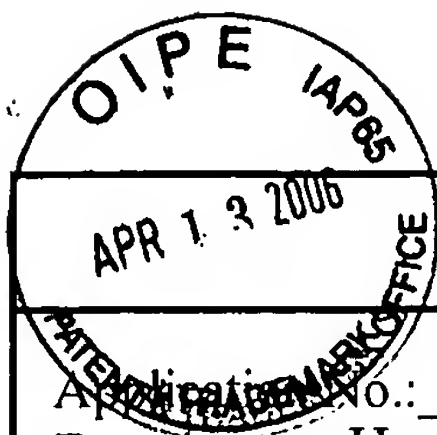
The Examiner is invited to contact the Attorneys listed below should any questions arise concerning this response or request for interview.

Respectfully submitted,

By:



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## Applicant Initiated Interview Request Form

Application No.: 10 /658,982  
Examiner: Horace L. Flournoy

First Named Applicant: Clark E. Lubbers  
Art Unit: 2189 Status of Application: Pending

### Tentative Participants:

(1) Examiner Flournoy (2) Mitchell K. McCarthy  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: To be determined by Examiner Proposed Time: \_\_\_\_\_ (AM/PM)  
after consideration of amendment.

### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

## Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej.</u>	<u>1</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>Rej.</u>	<u>16</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) <u>New</u>	<u>29</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

### Brief Description of Arguments to be Presented:

Prior art does not disclose different directory structures.

An interview was conducted on the above-identified application on \_\_\_\_\_.

**NOTE:** This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

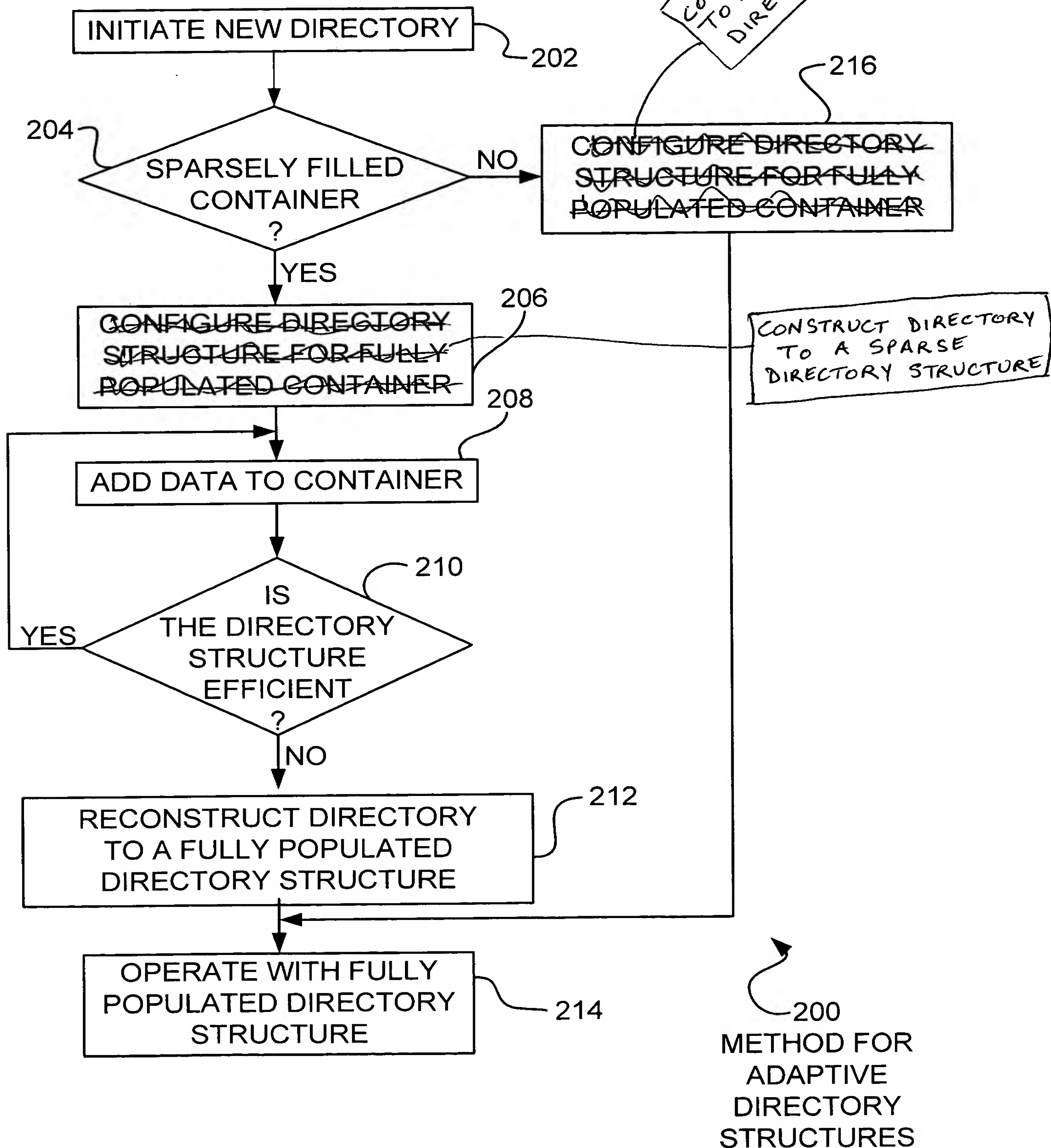
This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Randall K. McCarthy  
Applicant/Applicant's Representative Signature

\_\_\_\_\_  
Examiner/SPE Signature

Randall K. McCarthy  
Typed/Printed Name of Applicant or Representative

39,297  
Registration Number, if applicable



**FIGURE 2**